RETURN TO WORK:

Strategies, Implementation & Measures of Success

Employer Adviser

Helping you manage
workplace safety insurance

Summer 2003

Return to Work

Index

Page

Principles of Return to Work (Diagram) 1

Workplace Safety & Insurance Act – Impact on Return to Work
- Introduction 2
- Return to Work Responsibilities Under Section 40 2
- Penalties for Failing to Co-operate 4
- Labour Market Re-entry 4
- Employer's Report of Injury and Return to Work ..... 5 -6

Developing Your Return to Work Program
- The Pyramid 7
- Employer Checklist ..... 8 - 9
- Evaluating Your Workplace/Communication 10
- 10 Best Practices for Return to Work ..... 11 - 22

Managing Return to Work
- The Steps ..... 23 - 32

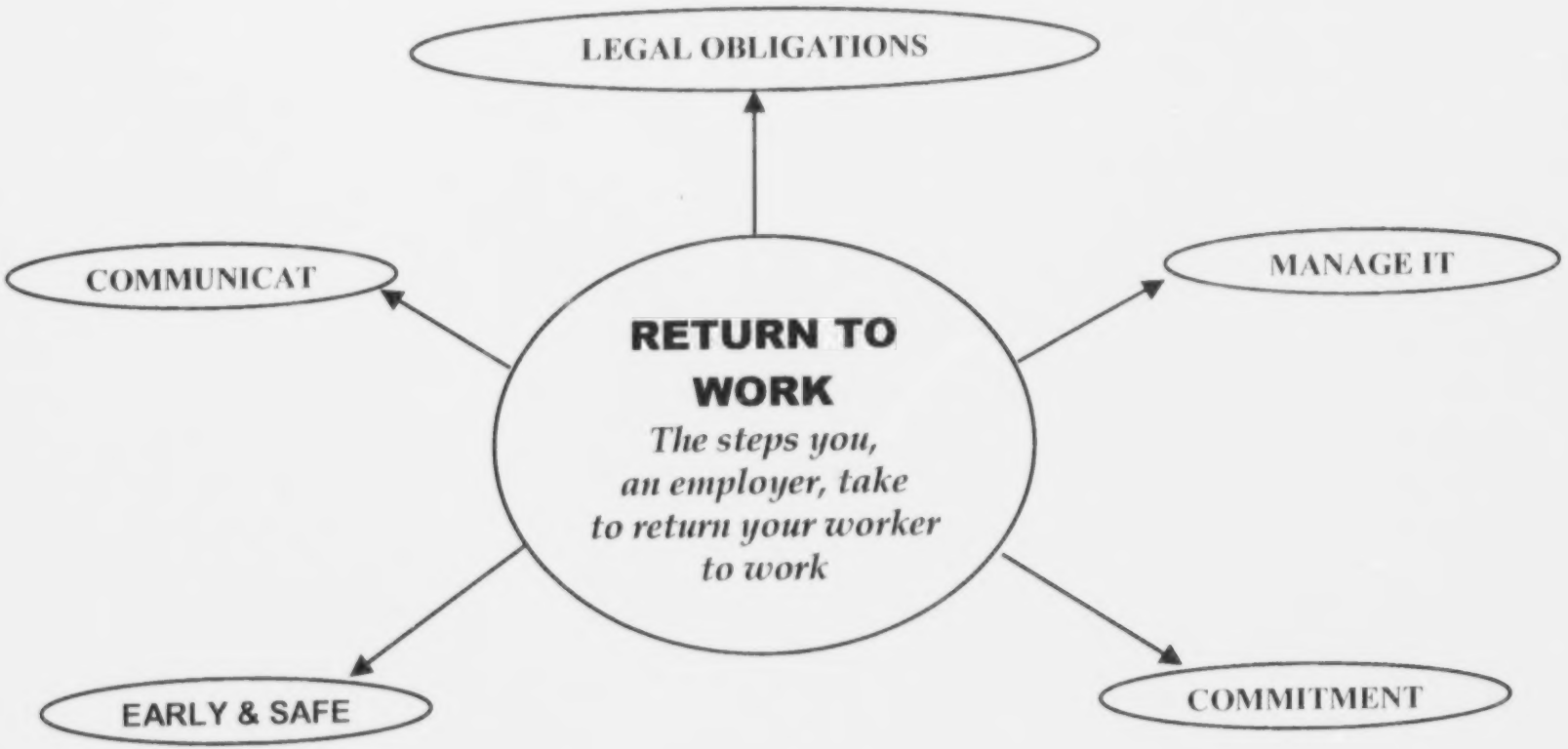
Managing Return to Work
- Job Placement ..... 33 - 35
- Job Placement Scenario ..... 36 - 37
- Job Placement Questions 38

Cost Impact of Return to Work (Scenario) ..... 39 - 40

Return to Work Conceptual Framework ..... 41 - 43

Re-Employment Obligation, WSIA Section 41 ..... 44 - 46

Re-Employment Diagram and Questions ..... 47 - 48


LEGAL OBLIGATIONS
COMMUNICAT
MANAGE IT
RETURN TO WORK
The steps you, an employer, take to return your worker to work
EARLY & SAFE
COMMITMENT

Introduction: Return to Work

Bill 99 came into effect on January 1, 1998 replacing the *Workers' Compensation Act* with the *Workplace Safety & Insurance Act*. The new Act introduced many new concepts regarding early and safe Return to Work (ESRTW) including the concept of greater employer self-reliance and a stronger focus on workplace parties (employer and worker) as being in the best position to promote Return to Work.

This document is a guide to employers in understanding the legislation that governs return to work and how to develop and manage a return to work program.

Return to Work Responsibilities Under Section 40, WSIA

Employers and workers have a statutory obligation to co-operate in the early and safe return of a worker. While employers engaged primarily in construction and workers who perform construction work shall be subject to separate regulations, which are to be prescribed.

The desired outcome of Return to Work is early return to work that is ***safe, available, within the worker's functional abilities*** and that, where possible, ***restores the worker's pre-injury earnings.*** The responsibility of getting to worker back to work is primarily placed on the employer and worker and therefore obligates both parties to a duty to co-operate, as set out under section 40, WSIA.

Employer Responsibilities

Section 40 (1) regarding the employer's duty to co-operate in return to work reads:

> **40. (1)** The employer of an injured worker shall co-operate in the early and safe return to work of a worker by,
> b) contacting the worker as soon as possible after the injury occurs and maintaining communication throughout the period of the worker's recovery and impairment;
> c) attempting to provide suitable employment that is available and consistent with the worker's functional abilities and that, where possible, restores the worker's pre-injury earnings;
> d) giving the Board such information as the Board may request concerning the worker's return to work; and
> e) doing other such things as may be prescribed.

Worker Responsibilities

Section 40 (2) regarding the worker's duty to co-operate in return to work reads:

> **40. (2)** The worker shall co-operate in his or her early and safe return to work by,
> b) contacting his or her employer as soon as possible after the injury occurs and maintaining communication throughout the period of the worker's recovery and impairment;
> c) assisting the employer, as may be required or requested, to identify suitable employment that is available and consistent with the worker's functional abilities and that, where possible, restores his or her pre-injury earnings;
> d) giving the Board such information as the Board may request concerning the worker's return to work; and
> e) doing such other things as may be prescribed.

Construction Industry Responsibilities

Section 40 (3) regarding the Construction industry, reads:

> **40. (3)** Employers engaged primarily in construction and workers who perform construction work shall co-operate in a worker's early and safe return to work and shall do so in accordance with such requirements as may be prescribed. Subsections (1) and (2) do not apply with respect to those employers and workers.

This duty to co-operate reinforces the principles of Return to Work in cases where workers may be able to return to modified work after receiving medical treatment of injury.

Workplace Safety and Insurance Board (WSIB) Responsibilities

Although the ***Board's role in this process is minimal***, their roles and responsibilities include:

- review and assess the likelihood of a successful return to work outcome
- offer information, advice, mediation, ergonomic services
- determine compliance with obligations to co-operate and the suitability of modified work
- determine loss of earnings benefits due to the worker
- mediate disputes
- levy penalties

Penalties for Failing to Co-operate

Failure to co-operate on the part of an employer or worker may result in penalties.

For the employer, the penalty is expected to equal 100% of the payments paid to the worker, plus the cost of labour market re-entry services. The penalty continues for the period of non-compliance or until LMR is complete.

For the worker, the penalty is a reduction or suspension of loss of earnings benefits.

Labour Market Re-Entry

The Workplace Safety & Insurance Act has replaced the Vocational Rehabilitation system with Labour Market Re-Entry (LMR) assistance. This assistance includes both an assessment and, if necessary, a plan to provide the worker with the skills, knowledge and abilities to perform the identified suitable employment or business.

The criteria for a worker to receive LMR includes:

- the worker is unlikely to be re-employed by the employer because of the nature of the injury
- there is no suitable, available work
- the employer is not co-operating in the early and safe return to work of the worker

If any of these criteria are met, the worker will be offered ***assistance to find suitable employment or a suitable business*** (SEB) that will enable the worker to re-enter the workforce as soon as possible and ***reduce or eliminate any loss of earnings*** resulting from the injury.

The Board will determine the suitable employment or business for the worker based on the National Occupational Classification that classifies occupations based on skill level and type. ***The LMR plan should be prepared in consultation with the worker, employer and Health Care Practitioner.*** The plan will be tailored to enhance the worker's existing transferable skills and will provide training, upgrading or education necessary to allow the worker to re-enter the labour market.

Employer's Report of Injury and Return to Work

Since an employer's return to work responsibilities start on the day when the employer becomes aware of an accident. The following three forms are instrumental in getting a worker to return to work.

Accident / Injury Reporting

The employer is required to complete the Employer's Report of Injury/ Disease (Form 7) within 3 days of learning of an injury and the WSIB must receive the Form 7 within 7 days business days from the date of learning of the injury. Section J on the Form 7, includes a signature box, which could be used for the worker's claim and consent to the worker's functional abilities information. If section J is not completed the worker is required to complete the Worker Claim / Consent form.

*Wo*rker Claim / Consent

As the WSIA requires workers to make a claim for benefits and consent to the release of functional abilities information to their employer, employers may want to ensure workers are aware of this requirement prior to an injury.

The Worker Claim/Consent Form (form #1492) is a new form designed for this purpose. Upon the worker reporting the injury, the worker must sign this form to make their claim for benefits and consent to the release of functional abilities information. This consent is good for the entire length of the claim.

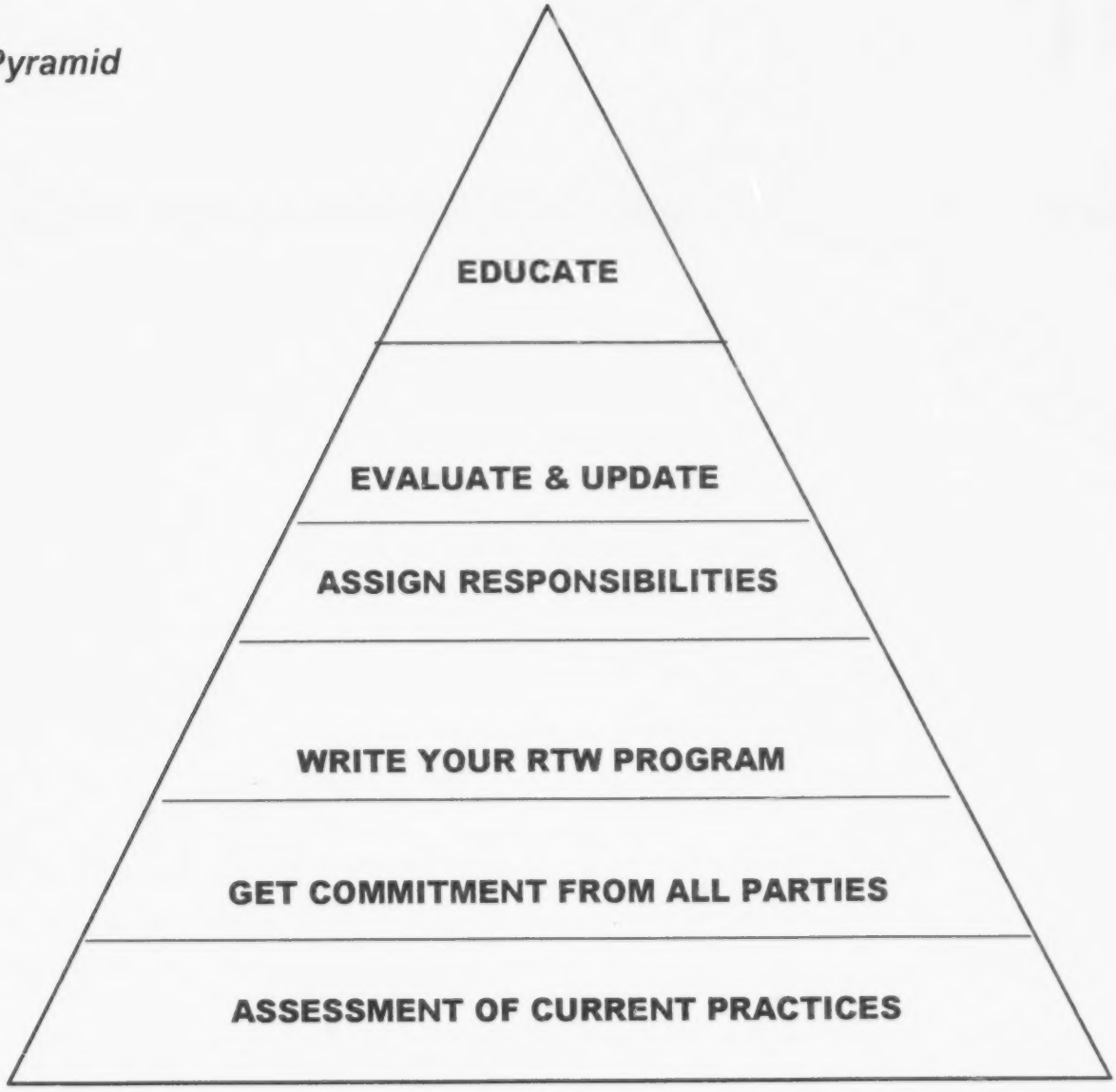
Functional Abilities Information

The Functional Abilities for Timely Return to Work (FATRTW) form provides information to the employer on what functions the worker is able to perform (e.g. lifting >10 kg, walking long distances, etc.). This information can be used to either modify the pre-injury job or find other work that is within the worker's functional abilities and therefore suitable. Note that this information is confidential and must not be released except to someone who is assisting in return to work. There is no specific Board policy on the FATRTW Form. The WSIB views the logistics of signing as an internal administrative issue for workplaces. The worker's consent is referenced in the policy dealing with the Worker's Reporting Requirements. Once you have obtained the worker's consent, attach a copy of the consent form to a blank FATRTW form.

An employer can use their own Functional Abilities form however; the Board will not pay the treating Health Care Practitioner (HCP) for completion of an employer's form and will not reimburse employers who pay the Health Care Practitioner for completion of the Board's form. As well, the consent form specifically references the Board's Functional Abilities for Timely Return to Work form" which may be problematic. The Board however recognizes that the consent is acceptable for the employer's own form. If the treating HCP is concerned about the consent they should contact the WSIB directly.

Developing Your Return to Work Program

The Pyramid



Employer Checklist:

Developing Your Return to Work Program

1. Assess your Current Practices

- ✔ Do you have senior management commitment?
- ✔ Assess your financial and legal obligations regarding Return to Work
- ✔ Do you have a program? If so, is it formalized?
- ✔ Do people have assigned responsibilities in returning a worker to work?
- ✔ Has your Return to Work program been communicated to management, staff and the union?

2. Get Commitment from All Parties

- ✔ Show upper management your projections including cost evaluations, legal obligations and the possible benefits in workplace relations
- ✔ Obtain management, JHSC and staff / union commitment
- ✔ Involve the Joint Health and Safety Committee (JHSC) in developing a Return to Work commitment statement.

3. Write your Return to Work Program

Consider:

- ✔ The collective agreement
- ✔ How and when you will contact the worker
- ✔ How contact will be maintained
- ✔ The process for obtaining functional abilities information
- ✔ How job matches will be made with functional abilities information
- ✔ If work is available to be set aside for Return to Work purposes
- ✔ Conditions of modified work, e.g. wages, hours, etc.
- ✔ How disputes are to be resolved
- ✔ What indicators you will use to evaluate the program.

Employer Checklist (continued)

4. Assign Responsibilities

Include who is responsible for:

- ✔ Contacting the worker
- ✔ Gathering the worker's functional abilities information
- ✔ Coordinating and offering work
- ✔ Monitoring the worker upon return to work
- ✔ Evaluating both individual cases and overall program results
- ✔ Updating the program

5. Evaluate & Update

- ✔ Both individual cases and overall program results
- ✔ Ongoing process through all steps of program development and implementation
- ✔ Based on the results of the evaluation, make the necessary changes to your Return to Work program

6. Educate

- ✔ Communicate the commitment
- ✔ Make details of the Return to Work program available to all staff
- ✔ Ensure staff gets regular updates on the program and its results.

Evaluating Your Workplace / Communication

Best Practices - Information Sheet

The template on the next page is for employers to use when assessing their current Return to Work communication practices.

What is it?

Its design includes the four parties included in Return to Work:

- **Management**
- **Worker**
- **Health Care Practitioner (HCP)**
- **Union or Health & Safety Representative**

and it includes ten Best Practices indicators.

How do I use it?

To use this evaluation tool, simply review the standards and give yourself ten points for every Best Practices Indicator that you currently have in your workplace (and 10 points for the blank boxes). The tool reviews elements from a management perspective only. Please note that there is an onus on the other parties (worker, HCP, union/health & safety rep) to actively participate in the Return to Work process. Total your score at the bottom of each party in order to get your percentage.

No matter what your score, refer to the explanation pages of the evaluation tool for information and methods of each Best Practices indicator and apply them in your workplace.

EVALUATING YOUR WORKPLACE/COMMUNICATION -- BEST PRACTICES FOR RETURN TO WORK				
BEST PRACTICES INDICATORS	*EMPLOYER*	*WORKER*	*HEALTH CARE PRACTITIONER*	*UNION / HEALTH & SAFETY REPRESENTATIVE*
1) Commitment Statement	Make written commitment statement available to all parties	Ensure worker reads commitment statement	Ensure HCP knows about commitment statement	Ask for support of commitment statement
2) Poster 82	Post WSIB Poster 82 in workplace	Ensure work reads Poster 82 and knows where it is posted		Show / tell union / H&S rep where Poster 82 is posted
3) Return to Work Policy	Make written Return to Work policy available to all workers	Ensure worker reads Return to Work policy		Ensure union / H&S rep is given Return to Work Policy
4) Investigate / Report Injury	Investigate / report injury within 3 days	Make sure worker reports injury and signs consent	Ensure HCP is given injury history	Ensure given report / injury details
5) Functional Abilities Information	Receive functional abilities information on prescribed form, before start of next shift following injury & get updates regularly	Ensure worker provides functional abilities information on prescribed form, before start of next shift following injury & after each doctor visit	Ensure HCP reports functional abilities information on prescribed form to the employer	
6) Return to Work Meeting	Talk to worker and identify suitable work	Ensure worker talks to employer to help identify suitable work	Ensure HCP is given suitable work details	Ensure union / H&S rep talks to employer and worker to help identify suitable work
7) Return to Work Plan	Give written RTW plan to worker	Ensure worker receives written RTW plan	Ensure HCP is given and agrees to written RTW plan	Ensure union / H&S rep is given and agrees on RTW plan
8) Return to Work Progress	Talk to worker and review RTW plan daily/weekly	Ensure worker reports to employer on progress daily/weekly	Ensure HCP reports changes in functional abilities	Ensure union / H&S rep is aware of changes in RTW plan
9) Return to Work Complete	Talk to worker when RTW goal complete. Use dispute mechanism if necessary	Ensure worker tells management when RTW goal complete. Use dispute mechanism if necessary	Ensure HCP is told when RTW goal is complete	Ensure union / H&S rep talks to worker / employer when RTW complete. Use dispute resolution mechanism if necessary
10) Return to Work Results	Report RTW Program results and support program	Ensure workers are given RTW Program results and request support for program		Ensure union / H&S rep is given RTW Program results and request support for program
TOTAL	Total _____	Total _____	Total _____	Total _____

Workplace / Communication
Best Practices for Return to Work

Index of Explanation Pages

1) Commitment Statement

2) Poster 82 "In All Cases of Injury"

3) Return to Work Policy

4) Investigate / Report Injury

5) Functional Abilities Information

6) Return to Work Meeting

7) Return to Work Plan

8) Return to Work Progress

9) Return to Work Complete

10) Return to Work Results

Best Practices Indicator #1- Commitment Statement

Information

The company should first develop a strong commitment to Return to Work and communicate and practice this commitment in a form that is visible and understandable to all parties. The commitment statement could be written by management or it could be a joint statement from both management and union / worker representatives. Broad goals for RTW may be established as part of the statement. For example, prevention of injuries and reduction of lost time due to injury.

Methods

- Management states and reinforces the commitment at orientation and staff meetings
- Statement is posted on bulletin boards
- Statement is included as an attachment to pay stubs
- Newsletter company or union
- Post statement in reception area visible to clients
- Remind staff periodically through memo to staff
- Ask the union to support and promote the objectives of the program
- Send commitment statement and principles of RTW policy to Health Care Practitioner

Best Practices Indicator #2 - Poster 82

Information

Regulation 1101 of the *Workplace Safety & Insurance Act* requires that Poster 82, the black and yellow "In All Cases of Injury" poster, be displayed on a notice board by the first aid station. The poster is available in English, French, Italian, Portuguese, Spanish and Chinese. Management should review the requirements of Poster 82 and confirm verbally or otherwise that each and every worker has read the poster and understands what the responsibilities of the employer and worker are in the event a workplace injury/illness occurs, i.e.: what each party is expected to do. Management should include Poster 82 as part of its orientation to new employees to ensure that the information is provided prior to commencing work.

Methods

- Post the WSIB's Poster 82 at the first aid station
- Workers should be shown the location of the poster at orientation
- Reminders should be made at safety/staff meetings

Best Practices Indicator #3 - Return to Work Policy

Information

The Return to Work policy should describe how the RTW process would be handled. This includes roles and responsibilities, entry and exit criteria, time frames for follow-up, time frames for reporting with functional abilities information and measurement of the program. In a unionized environment, the collective agreement should be taken into consideration as the policy may require negotiation with the union. Consulting with workers and the union to get input into the policy will help with buy-in.

To speed up resolution of disputes, a dispute mechanism should be included in your policy identifying action to use when they arise. This could be as simple as notifying the WSIB regarding ESRTW disputes and requesting mediation.

Methods

- Educate workers and management in the use of the policy
- Have the policy easily accessible to workers and management for reference

Best Practices Indicator #4 - Investigate / Report Injury

Information

WSIB requires employers to complete the WSIB's Form 7 within three calendar days after learning of the injury or illness if the worker loses time, is unable to earn full wages or if they sought health care. There is no statutory requirement under the Occupational Health and Safety Act (OHSA) for employers to investigate injuries, except in the case of a critical injury or fatality.

Investigations help employers in the prevention of future injuries, completing the Form 7 and in the case of an appeal it allows employers to refer to information collected while the incident is fresh. Investigations should include interviews and statements of witnesses and the worker, photographs or diagrams of the injury site and an analysis of what happened. Injury reports should include recommendations for prevention. The reports should be given to the Health and Safety Committee or Health and Safety Representative as required under Section 52 of the OHSA.

Methods

- Tick "yes" in the box on Form 7, Section B that states, "Do you have an early Return to Work, Co-operative Return to Work program or an accommodation program in your workplace?"
- Put Injury Investigation on the agenda at Health & Safety meetings
- Establish procedures for conducting accident investigations

Best Practices Indicator #5 - Functional Abilities Information

Information

Section 37(3) of the *Workplace Safety & Insurance Act* requires the treating Health Care Practitioner to provide information regarding functional abilities to the Board, the worker and employer when requested to do so by the employer or injured worker. Employers may also use their own forms to receive this information, however, they must bear the cost of the Health Care Practitioner completing the form. The worker's consent to release of Functional Abilities information may be obtained on the Worker Claim/Consent Form.

Send a Functional Abilities form and consent with the worker at the time of first medical treatment. The worker can then inform you about their RTW ability before the next scheduled shift. Identifying the most suitable job depends on knowing what the worker can or cannot do and for approximately how long.

Methods

- Keep consent and Functional Abilities forms at the First Aid Station / available to Supervisors.
- Have the worker sign the consent at the time they report their injury.
- Establish a process for the worker to report back following treatment.
- Provide Health Care Practitioner with summary of RTW policy.
- For updates, as needed, give a Functional Abilities form to the worker to take to the Health Care Practitioner for follow-up appointments.

Best Practices Indicator #6 – Return to Work Meeting

Information

The *Workplace Safety & Insurance Act* requires workers and employers to co-operate in ESRTW by identifying suitable, available employment. Arrange a RTW meeting before the start of the next scheduled shift to find out what the worker can do and to identify if there is suitable, available work. A co-operative team approach with input from management, worker and union to identify work will be most successful. Review the physical demands and define the essential duties of the pre-injury job. Match the worker's abilities to the demands of the job. The objectives for Return to Work are a return to pre-injury job, pre-injury job with accommodation or other suitable, available work. To determine the worker's abilities, use the functional abilities information and ask the worker what they feel they are capable of doing. Ideally, the worker will be able to perform the pre-injury job with modifications. Alternatively, assign the worker to another job in the same department/area or reduce volume of work performed, allow more frequent breaks, reduce hours, provide assistance for certain tasks or assign the worker to another job in a different department/area or assign special project work. If there is no suitable, available work at the end of the meeting set a target date and objective for the next RTW meeting and inform WSIB of the outcome.

Methods

- Include in the RTW policy the requirement to attend a meting before the beginning of the next scheduled shift, if medically able.
- Schedule RTW meetings and advise the worker, manager and union.
- Use the telephone for the RTW meeting, if the worker says they will not attend.
- Fax a letter to the Health Care Practitioner asking if there are any concerns about the worker's ability to attend an RTW planning meeting.

Best Practices Indicator #7 - RTW Plan

Information

Complete a RTW plan at the RTW meeting. A written RTW plan helps everyone understand the goal and details of the Return to Work. The plan should identify a

goal, an end-date and the details to reach the goal with timeframes. The goal is either a return to pre-injury job, pre-injury job with accommodation or suitable, available work. The details include the temporary duties assigned to the worker, production rate, start date, hours and days to be worked, wages and the next review date. For example, if the goal is a return to pre-injury job, the details of the worker's Return to Work plan are the pre-injury job with reduced hours for four weeks, gradually increasing to full hours. Ensure management, worker and worker representative agree on the plan and understand its components. If there is a dispute, use the dispute mechanism as outlined in the policy.

Methods

- Uses of written RTW plans are noted in your RTW policy.
- Educate worker and management on the use of a written RTW plan.
- Send / fax written plan to WSIB Claims Adjudicator.
- Send / fax or ask worker to give written plan to the treating Health Care Practitioner.

Best Practices Indicator #8 - RTW Progress

Information

The written RTW plan should identify a formal review date. Daily informal reviews can be done in conversations with the worker and/or through the use of an RTW journal completed by the worker and/or supervisor. Informal reviews are

useful because they identify problems immediately. A meeting of all participants should be held to formally review the progress of the plan and to address any issues. For example, if the worker has medical appointments during work hours; this issue is best resolved by coordinating the worker's treatment in the Return to Work plan. Review progress by focusing on achieving the goal. If details of the plan are not being achieved, meet with worker to identify obstacles and possible solutions to these obstacles and revise the plan as needed.

Methods

- Educate management and workers on use of written RTW journal.
- Schedule regular review meetings.
- Send / fax RTW issues or changes to the WSIB.
- Send / fax or ask worker to give RTW changes to Health Care Practitioner.

Best Practices Indicator #9 - RTW Complete

Information

Return to Work is completed successfully when the goal in the RTW plan is achieved. Once it is known that the goal cannot be met, the participants can either revise the end-date or discontinue the plan. It is important to report to

management, worker, Health Care Practitioner and the WSIB that the RTW plan is finished or discontinued.

Methods

- Give the RTW plan (including goal details and outcomes) to worker and tell/give to Health Care Practitioner
- Send fax completed or discontinued RTW plan to WSIB

Best Practices Indicator #10 - RTW Results

Information

Once a RTW program has been put in place, it is important to measure the results of the program to determine if the company's resources are being utilized effectively. If you have set RTW program goals in your commitment statement, it is important to measure and report progress toward these goals.

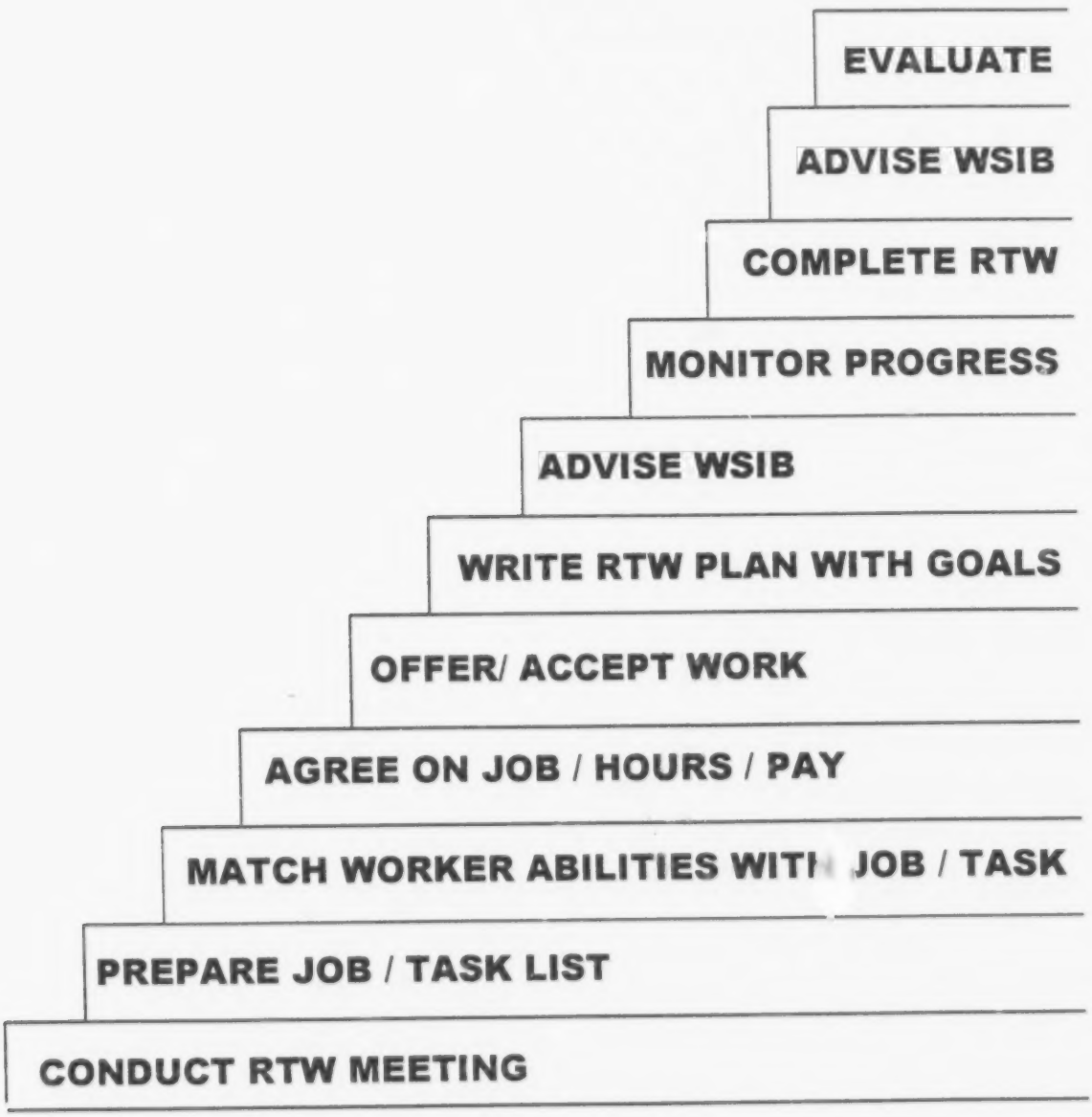
Generally, the benefits of measuring and communicating results in your RTW program are:

- acknowledges the efforts of management and workers increases participation and acceptance
- illustrates management's commitment to the program
- provides evidence for a budget for RTW programs
- provides information for future planning and improvements
- enhances corporate image with stakeholders, clients, government agencies and the community

Methods

- Set measurement time-lines in your RTW Policy, for example, monthly/quarterly/yearly
- Measure WSIB costs by comparison to last year's costs, for example, MAPP/NEER/CAD-7 rebate/surcharge
- Measure by comparison to last year's results, for example, lost time injuries, days lost
- Report results at the Health & Safety Committee meetings, post results on bulletin boards
- Add management's RTW performance to annual performance evaluations, for example, co-operation and problem-solving skills
- Measure effectiveness and value of program with confidential questionnaire to management and workers

The Steps


EVALUATE
ADVISE WSIB
COMPLETE RTW
MONITOR PROGRESS
ADVISE WSIB
WRITE RTW PLAN WITH GOALS
OFFER/ ACCEPT WORK
AGREE ON JOB / HOURS / PAY
MATCH WORKER ABILITIES WITH JOB / TASK
PREPARE JOB / TASK LIST
CONDUCT RTW MEETING

Steps in Managing Return to Work

1. RTW Meeting

1) Who should attend?

2) Where should the meeting be held?

3) When should the meeting take place?

4) What information should be available?

5) What needs to be discussed?

6) What should happen if there is a disagreement?

2. *Prepare Job/Task List*

A job/task list will enable the parties involved in RTW programs to look at a particular job and its associated tasks in order to determine whether a worker's functional ability will permit them to accomplish the job outcome or specific task outcome.

Task analysis is a procedure used to identify and quantify (where possible) the demands of a specific job. This process takes into account notation of physical, mental and perceptual demands. The job environment, equipment used and management directives such as shift work and work/rest schedules are also specified. The analysis should objectively count and measure as many factors as possible, try to avoid estimation. Create a form that reflects your workplace tasks and use this form for all task analysis.

A task analysis will identify:

- ✔ hazards
- ✔ training and equipment needs
- ✔ pre placement assessment needs, and
- ✔ provide detailed information about the pre-injury job or suitable work

Task analysis can be done by anyone in the workplace who has received guidance and instruction in completing the form can. This could be a department head, a supervisor, a union or health and safety representative, the worker, a co-worker, or rehabilitation professional. Task Information should be verified and agreement should be reached on the final analysis. The analysis should be reviewed periodically and documentation updated.

Employers should take a proactive approach and perform a task analysis of all job processes to identify hazards; equipment needs, and collect information before an injury occurs. In the case of assisting an injured
worker through the rehabilitation process, a task analysis enables the parties in the RTW process to look at the pre-injury or suitable, alternate employment to effectively and safely reintegrate the worker into the work environment.

Develop a checklist with the following categories being measured:

- ✔ physical demands
- ✔ mental and perceptual demands
- ✔ environmental issues
- ✔ equipment interactions
- ✔ management influences or discretions

Objective measurements (i.e. frequency, duration, weight, dimensions) must be used. The analysis should measure each task as a separate entity, not the job as a whole.

Procedure for completing the checklist in a RTW situation:

1) Describe the job, including its objectives and outcomes using a detailed job description.
2) Divide the job into tasks.
3) Identify which tasks are essential and which are nonessential.
4) Complete the task analysis checklist for all essential tasks.
5) Review the list of nonessential tasks.
6) Review the completed checklist with the worker or an alternate person involved in the RTW process.
7) Send the completed checklist to the RTW Coordinator, the treating physician and to the WSIB.

Observe the tasks while they are being performed. Each task should be observed more than once and by more than one individual to note occasional variations that may exist from workstation to workstation or work locations. Do not make any assumptions about the job or rely on memory. An ergonomist or work site analyst may be consulted to ensure accuracy.

3. Match Worker Abilities With Job/Task

The FATRTW form is useful in matching the worker's abilities with job tasks. The form provides information to the employer on what functions the worker is able to perform (e.g. lifting >10 kg, walking long distances, etc.). The FATRTW information is used to determine if the worker's functional abilities match with the task analysis for essential duties of the pre-injury job. If there is no match, check to see if the essential duties can be modified to match and /or remove tasks that cannot be modified to match the worker's abilities.

4. Agree On Job/Hours/Pay

Parties discuss and agree on the appropriateness of the job. Agreement must be reached on the job, the hours at which the worker will be placed in each specific task in the job, and the rate of pay.

If the worker reports having difficulty performing their regular duties, you could accommodate the worker in their current job by eliminating or alternating the way in which he or she is performing certain tasks and avoid any lost time.

To avoid possible aggravation or re-injury remember that if the worker has been absent from work for a period of time, the worker will need time to adjust to working. Ensure the worker is reintroduced to the workplace gradually by slowly increasing hours or tasks.

5. Offer/Accept Work

A verbal offer should be made to the worker and confirmed in writing. This offer must clearly state what job/work is being offered, the nature of the work, its duration, and expectations concerning progression and productivity.

6. Write RTW Plan

An RTW plan has two key components:

- ✔ The worker's reintegration in the workplace to ensure successful placement, and

- ✔ Continuous and accurate monitoring of the worker's progress toward achievement of the stated RTW goal.

When writing the plan, the concerns of the injured worker and their co-workers should be taken into account. A supportive work environment and positive relationship between the worker and supervisor is necessity to achieve a successful RTW.

Workers could have the following concerns:

- Their ability to keep up with the expectations of management and co-workers. This is in regards to the amount of work performed after their injury and during the rehabilitation stage.
- Perceptions from others regarding their coping mechanisms and pain tolerance. The worker may feel inhibited from expressing difficulty performing assigned tasks.

Co-worker concerns may include:

- Possible increases to their own workload if the recovering worker is not able to perform full pre-injury duties.
- The perception that the recovering worker may be malingering.
- Being short staffed and inconvenienced due to the recovering worker's absence.
- Resentment from co- workers who earn the same wages as the recovering worker who does not perform the same work or amount of work.
- Resentment of the program for giving recovering workers preferential treatment.

To foster a supportive work environment:

- Advise co-workers that the worker is still recovering and that the

modified work supports the medical status and functional capabilities of the injured worker.
- Encourage open and continued communication between the worker, supervisor(s), and all parties assisting in the worker's rehabilitation at work.

7. Advise the WSIB

From the time the injury is reported, the WSIB should be updated regularly regarding the worker's progress and return to work. Employers should provide the following information:

- any reduction in hours of work if the worker is not working their pre-injury hours of work.
- any reduction in wages if the worker did not return to pre-injury wages.
- any discrepancy or dispute about the work or duties being performed and the goal of the RTW plan.

8. Monitor Progress

The RTW Plan should be reviewed to determine if goals and target dates are being achieved. This should be done through meetings set up with the worker and Health and Safety Representative or union. In some cases, meetings may involve the treating physician(s) or recommendations from them. Collaboration is required with all parties to determine if changes are required to the RTW plan.

If an RTW plan includes graduated hours, all parties need to ensure regular assessment of the worker's tolerance of the increase. The frequency for monitoring progress will depend on the type, severity and area of injury, as well as the worker's involvement, attitude and motivation. These factors can be evaluated with the assistance of the treating HCP, supervisors, and workplace parties involved in the worker's rehabilitation.

9. Complete RTW

The completion of a RTW plan can occur in three ways:

✔ **The worker returns to pre-injury or comparable work and pre-injury wages.** This is the best result for all parties as there are is no future loss of earnings for the worker, no future costs for the employer and the employer retains the worker's experience and training.

✔ **The worker returns to work with the accident employer to permanent suitable work.** Pre-injury wages should be offered where possible. If pre-injury wages are not restored, there will be a loss of earnings for the worker and potential additional costs to the employer.

✔ **The worker is unable to Return to Work.** If the worker is unable to return to work due to the nature of the injury, the worker will undergo a Labour Market Re-entry Assessment (LMRA). If the worker requires a Labour Market Re-entry Plan (LMRP) there will be a loss of earnings for the worker, future costs to the employer and a loss of an experienced worker.

10. Advise WSIB of Completed RTW

The WSIB should be informed when the worker completes the RTW plan and whether or not the employer is successful in returning the worker to work. If the worker is involved in a Labour Market Re-entry Plan (LMRP), the employer should be included in discussions. The accident employer needs to remain informed of the plan, its progress, and the outcomes in order to monitor accident costs and the impact on their experience rating.

11. Evaluate RTW

The return to work plan should be measured upon completion to determine its effectiveness on a case-by-case basis. Areas to measure include:

- hours on modified duties, graduated hours
- wage loss as a result of graduated hours

- rehabilitation costs such as physiotherapy
- accommodations (such as assistive devices, equipment, reduction in permanent hours, assignment of tasks to other employees to meet functional capabilities)

Return to Work Placement Hierarchy

In returning injured workers to work, employers should keep in mind that the earlier the return to work, the greater the chance of success. The ultimate goal of a return to work plan is a return to the pre-injury job as soon as possible. If the worker is not able to return to their pre-injury job the employer should attempt to accommodate the worker. Accommodation eliminates replacing the worker with other staff and restores the worker's pre-injury earnings.

The hierarchy of placement is:

- pre-injury job with no restrictions and no accommodation
- pre-injury job with restrictions and accommodation
- suitable, available job with no training and no accommodation
- suitable, available job with training and accommodation
- new job created

Physical Demands Analysis (PDA)

Physical Demands Analysis refers to an analysis of job tasks, specifying physical demands such as lifting, squatting, carrying, and standing. Tasks such as lifting and carrying should be quantitative and descriptive. Ideally, the employer will have PDA's for all positions as well as for jobs that could be used on a short-term basis for Return to Work.

Method

Use PDA's to modify pre-injury jobs by temporarily eliminating demands the worker is not capable of performing as shown on the Functional Abilities Form or from known standard restrictions. The goal is to limit exposure for re-injury and to slowly increase demands on the worker to full function and a return to the pre-injury job.

Provide the PDA to treating health care practitioners and/or physiotherapists to compare the demands of the job to worker's functional abilities information. Provide the Board with the PDA to determine the worker's ability to return to pre-injury or suitable work in cases of dispute.

Functional Abilities Information

Effective January 1, 1998 the *Workplace Safety & Insurance Act* requires workers to release Functional Abilities information to their employers in order to facilitate an early and safe return to work. The Functional Abilities Timely Return to Work (FATRTW) form contains information about an individual's capacity to perform specific physical functions. The information can then be compared to the PDA to determine if the injured worker can return to work and in which position. The worker's consent to the release of functional abilities information can be obtained through the Worker Claim/Consent Form.

Method

Have the worker sign their consent upon reporting the injury. Send a copy of the consent to the treating health care practitioner at the time of first treatment along with a copy of the WSIB's Functional Abilities form. To obtain updated information, provide the worker with a blank form for completion by the treating health care practitioner at the next appointment.

Standard Precautions Information

The Workplace Safety & Insurance Board has Medical Advisory Standard Precautions, which are general precautions for conditions such as common strains of back, neck, shoulder, and upper and lower extremity injuries. If an employer knows the type of injury and the standard restrictions, the worker could be offered modified work within these restrictions prior to receiving functional abilities information.

- *non-repetitive work* is work that is self-paced, thereby permitting rests as required.
- *repetitive work* is any work that requires an injured part to work to an externally imposed rate.
- *prolonged work* means work of a sufficient duration that could cause symptoms or discomfort from which the worker could not rest.

Essential Duties

When returning an injured worker to work, the employer should be aware of their re-employment obligations. If the worker is able to return to the essential duties of their pre-injury job, the employer is obligated to offer them their pre-injury job or comparable work. In order to determine the essential duties of a job, consideration must be given to the duties necessary to produce the actual job outcome. The "job outcome" is the final product or service required; the duties required to achieve the job outcome are the "essential duties".

The duty is essential if, when you take the duty away:

- the job outcome is not accomplished
- the product or service is affected
- a process before or after is affected

If you are unable to arrange suitable work, the WSIB will conduct an LMR assessment. Prior to informing the WSIB that suitable work is unavailable, you should:

- use mediation to confirm that suitable work cannot be arranged
- ensure you have complied with your RTW and re-employment obligations under the WSIA
- project the cost impact of the claim, in order to budget for the potential surcharge

Scenario: Job Placement

Joe, a Health Care Aide, complains of back pain after a busy 12-hour shift. He is not scheduled to work again for 72 hours. Joe seeks medical attention from his family doctor the next day. Since being hired in 1994, Joe has complained a few times of back pain. In fact, he was absent for a few weeks last year, due to non-compensable reasons, because of this complaint. Joe is a valued employee and motivated to return to work.

Health Care Aide Physical Demands

Lifting
- 6-10 lbs. 1-3 hours per day
- 100+ lbs. with help <1 hour per day

Carrying
- 6-10 lbs. 1-3 hours per day

Pushing
- 26-50 lbs. 1-3 hours per day
- 100+ lbs. <1 hour per day

Reaching/Working
- Above Shoulder Work <1 hour per day
- Below Shoulder Work >3 hours per day

Mobility
- Standing <3 hours per day
- Walking <3 hours per day
- Climbing Stairs <1 hour per day
- Crouching <1 hour per day
- Bending <1 hour per day
- Twisting <1 hour per day

Example (continued)

Standard Back Restrictions

- no repetitive trunk movement
- no heavy lifting
- no prolonged weight bearing which includes sitting, standing and walking

Health Care Aide Job Duties

- serves and feeds residents
- transports residents using wheelchair, 2 person transfer and Hoyer Lift
- assists residents with personal grooming
- dusts and tidies resident units

Job Placement Questions

1. What should have been in place before Joe's injury?

   _____

   _____

   _____

2. Can Joe do his pre-injury job?

   _____

   _____

   _____

3. Can Joe's pre-injury job be accommodated to fit his functional abilities?

   _____

   _____

   _____

4. Can you arrange suitable work for Joe that is within his functional abilities? If Joe is receiving physiotherapy, can you accommodate this in his return to work plan?

   _____

   _____

   _____

5. If you can't arrange suitable work, what factors should you consider?

   _____

   _____

   _____

Scenario:

Company A - Returns a worker to work

Joe, a 35-year old hired in 1994, making $450 a week, injures his back and is taken to a walk-in clinic. The employer is able to return Joe to suitable work at his pre-injury wages the next day. Joe returns to his pre-injury job in 2 weeks.

Health Care Costs $250.00

Company B- Refuses to return worker to work

Joe, a 35-year old hired in 1994, making $450 a week, injures his back and is taken to a walk-in clinic. The employer refuses to co-operate in Return to Work. After three months of attempts at return to work, Joe is offered Labour Market Re-entry assistance. It is determined that Joe could work as a Security Guard and he embarks on a one-year training program at a private community college. Following completion of the program, Joe has a 3-month job search. It is then deemed that Joe's expected wage, as a Security Guard is $250 a week.

Claim costs:

$ 1,000	medical treatment
24,540	18 months of benefits
6,000	retraining costs
228,480	28 years of wage loss benefits (85% of $200 wage loss)
33,540	RTW penalty (18 months' benefits + LMR costs)
36,720	Re-Employment penalty (2 years benefits)

Total: $333,280

Cost Impact of Return to Work		
Experience Rating Program	**Company A – RTW Cost Impact**	**Company B - No RTW Cost Impact**
MAPP $90,000 payroll $2.59 rate	$233 savings (10% discount)	$1,165 surcharge (50% penalty) plus RTW penalties
NEER $125,000 premiums	$11, 982 rebate	$24,025 surcharge plus RTW penalties
Schedule 2	$250	$333,280 +28.63% admin fee $428,698 total
CAD-7 $125,000 premiums	$29,000 rebate	$58,000 surcharge plus RTW penalties

Return to Work Conceptual Framework

This framework is based on the study *Workplace Organizational Correlates of Lost Time Accident or Injury Rate in Manufacturing*, published in the American Journal of Industrial Medicine, March 6, 1995.

The study looked at 770 randomly chosen workplaces with greater than 50 workers and was conducted in Ontario between 1990 and 1992. The objective was to develop an in-depth comparative profile of member companies of the Industrial Accident Prevention Association (IAPA) with excellent, good and poor safety performance and to identify similarities and differences, if any, between the three groups.

To identify these similarities and differences the study considered the following:

- the organizational culture
- management's philosophy regarding health and safety
- management's perception of the importance of health and safety
- management's commitment to health and safety
- worker involvement in health and safety
- health and safety training.

The lost time frequency rate for the years 1986 -1988 was calculated for each workplace and contrasted against the average of the rate group. The results were then classified as a percentage. High referred to a company with 150% of the rate group average; Low was less than 50% of the rate group average and Medium was between 50 - 100% of the average.

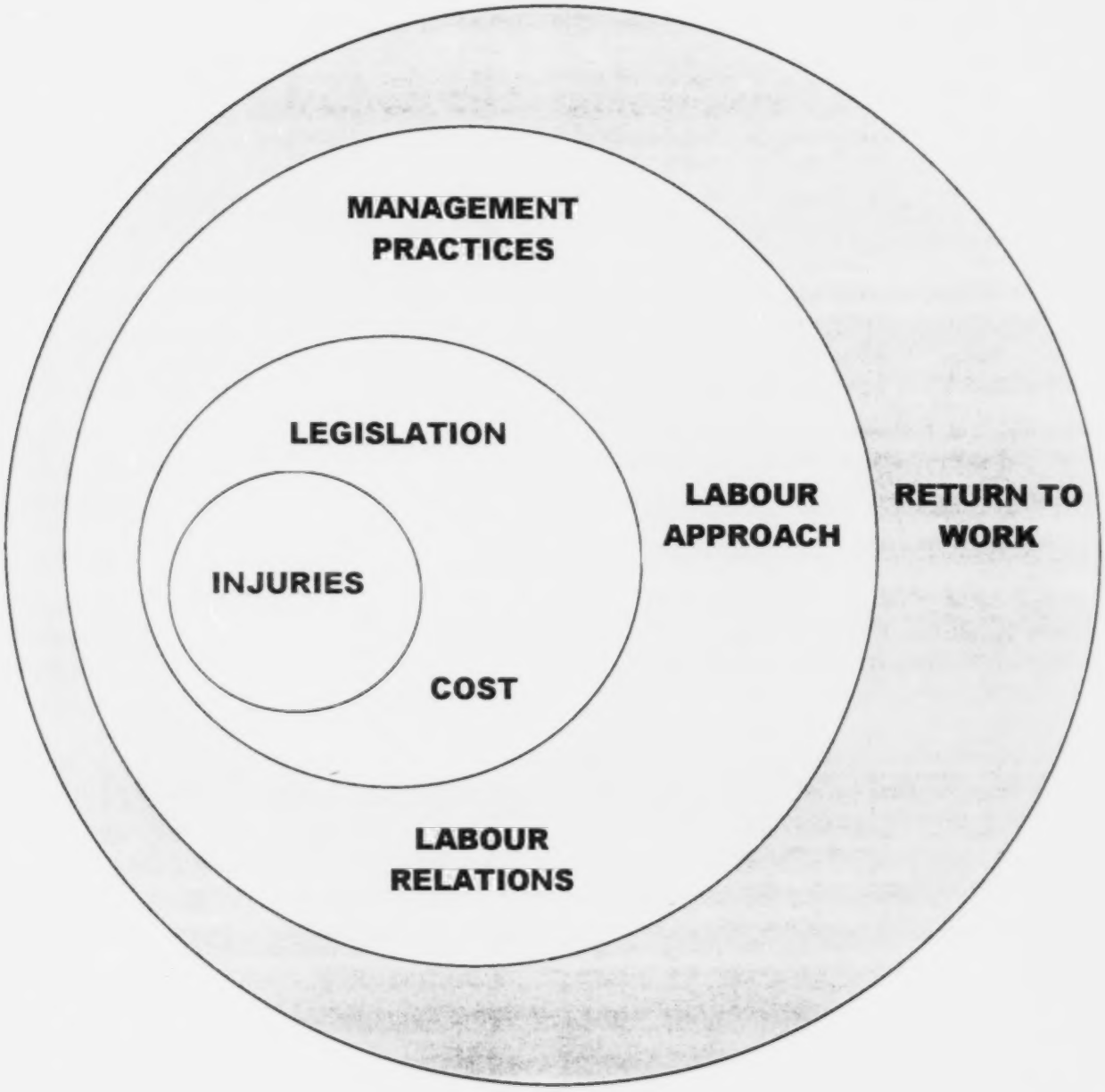
Results showed that companies with older workers, workers with longer seniority and low turnover tended to have lower lost time frequency rates. As well, in unionized workplaces, lower grievance rates had corresponding lower claim rates. Greater worker participation in health and safety also resulted in lower lost time frequency.

Neither the existence of a health and safety policy nor having an individual fill the position of Health & Safety Coordinator was related to lower frequency rates. Factors that did have a relation to lower frequency include:

- defining health and safety in every manager's job description
- including the importance of health and safety in manager's annual performance appraisals; and
- attendance by senior management at health and safety meetings.

Further, active Joint Health and Safety Committees generally resulted in lower frequency rates due to the problem-solving style of these groups.

This study illustrates that in order to reduce the frequency of lost time injuries, management at all levels must demonstrate a strong commitment to health and safety. Thus management practices, labour relations, legislation and cost all impact on injury frequency, which in turn impacts on Return to Work.


MANAGEMENT PRACTICES
LEGISLATION
INJURIES
COST
LABOUR APPROACH
RETURN TO WORK
LABOUR RELATIONS

Re-Employment Obligation - WSIA Section 41

Although the return to work obligation applies to all employers the duty to re-employ a worker under section 41 of the WSIA applies to employers who meet the threshold requirements.

Threshold Requirements

- employer regularly employs 20 workers or more
- on the date of the injury, the worker had been employed continuously for at least one year by the employer
- worker is not able to work as a result of the injury

Duration

The obligation lasts until the earliest of:

- 2 years from the date of injury
- one year after the WSIB notifies the employer that the worker is medically able to perform the essential duties of the worker's pre-injury employment, if the WSIB does so, or
- the date the worker turns age 65

Note: If you terminate a worker within six months of returning to work the WSIB presumes that you have not fulfilled your obligation under Section 41, unless you can show that the termination was not related to the injury.

Nature of the Obligation

- Worker is fit for essential duties of the pre-injury job employer must offer pre-injury work (full duties/essential duties) or comparable work immediately
- Worker fit for suitable work — employer must offer suitable work if available (work does not have to be created)

Note: *Notice of fitness will be from the worker.* However, if there is a disagreement the WSIB will make the final determination.

Accommodation

Section 41 (6) regarding the duty to accommodate, reads:

> The employer shall accommodate the work or the workplace for the worker to the extent that the accommodation does not cause the employer undue hardship.

Common ways to accommodate the work or workplace include reduced hours, frequent breaks and assistive devices such as a chair, lumbar support, anti-fatigue mat, etc.

Note: The WSIB applies the Ontario Human Rights Commission's (OHRC) guidelines for undue hardship outlined in the report *Guidelines for Assessing Accommodation Requirements for Persons with Disabilities*. This report is available from the OHRC.

Potential Penalties

Employers are liable for the following penalties for failure to comply with their Section 41 of the Act:

- a penalty not exceeding the worker's net average earnings for the year preceding the injury; and
- payments to the worker for a maximum of 1 year as if the worker were entitled to payment under Section 43, Loss of Earnings.

Note: Employers may also be liable for penalties under Section 40, Return to Work.

The Construction industry is exempt from Sections 40 and 41 of the Act but has its own regulations to comply with regarding Return to Work and Re-Employment.

Re-Employment Diagram

The re-employment diagram on the following page is to assist the employer in identifying their legal obligation under Section 41 of the *Workplace Safety & Insurance Act*. It indicates what you need to do to comply with, your obligation and what is left to your discretion. Please note that this diagram does not apply to your Return to Work obligation under Section 40.

Information to determine which step on the diagram applies:

1) *Is there an obligation?* Determining the date of injury enables you to determine if you have an obligation under Section 41. The duration of the obligation lasts until the ***earliest*** of:
   a) 2 years after date of injury
   b) 1 year after the employer is notified by the WSIB that the worker is able to perform the essential duties of pre-injury job
   c) date worker reaches age 65.

1) *What is the worker able to do?*
   - perform essential duties of pre-injury job *OR*
   - perform suitable, available work.

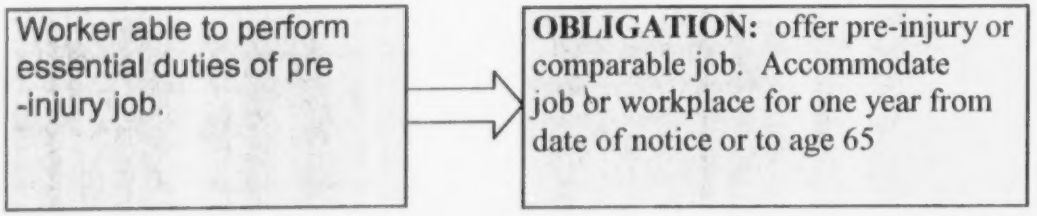
3) *If you do not agree, what is the WSIB's determination?*
   - perform essential duties of pre-injury job *OR*
   - perform suitable, available work.

Legislative Authority
Fit to perform essential duties of pre-injury job
Section 41(4), (6), (8)

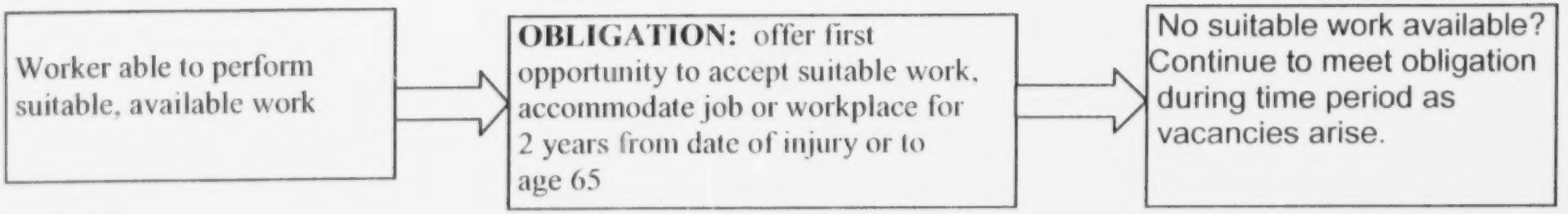
Fit to perform suitable, available work
Section 41(5), (6), (8)

IS THERE A RE-EMPLOYMENT OBLIGATION? YES – Go to Step A or B NO -- Go to Step C

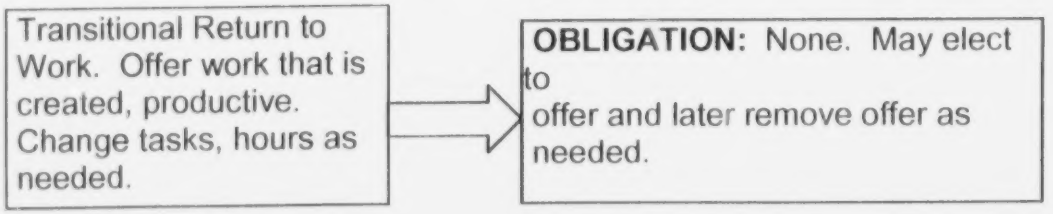
Step A


Worker able to perform essential duties of pre -injury job.
OBLIGATION: offer pre-injury or comparable job. Accommodate job or workplace for one year from date of notice or to age 65

Step B


Worker able to perform suitable, available work
OBLIGATION: offer first opportunity to accept suitable work, accommodate job or workplace for 2 years from date of injury or to age 65
No suitable work available? Continue to meet obligation during time period as vacancies arise.

Step C


Transitional Return to Work. Offer work that is created, productive. Change tasks, hours as needed.
OBLIGATION: None. May elect to offer and later remove offer as needed.

Re-Employment Diagram Questions

You own a company with 20 employees. Joe, one of your workers hired June 1, 1994, had an injury one month ago today.

1) Joe notified you today that he can return to the essential duties of his pre-injury job. Do you have a re-employment obligation? Which step on the diagram applies? What is the duration of the obligation (start and end dates)? _____

2) What if Joe notified you today that he has restrictions and can return to suitable work. Do you have a re-employment obligation? Which step on the diagram applies? What is the duration of the obligation (start and end dates)? _____

3) What if Joe's accident or injury date was June 15, 1995. Do you have a re-employment obligation? Which step on the diagram applies? What is the duration of the obligation (start and end dates)? _____

Employer Adviser

Helping you manage
workplace safety insurance

RETURN TO WORK
Sample Program

Information about the **Return to Work Sample Program** is included in the Office of the Employer Adviser's
Return to Work: Strategies, Implementation and Measures of Success Guidebook.
Refer to the "Evaluating your Workplace / Communications Best Practices Tool" section.

Sample generic forms and documents are provided as a guideline to help you get started with your return to work policies and procedures.

These forms and documents are not required by the Workplace Safety and Insurance Act, 1997.

OFFICE OF THE EMPLOYER ADVISER
1-800-387-0774
www.gov.on.ca/lab/oea

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INDEX

Policy Commitment Statement 1

Letter of Understanding between Company and Union 2

Program Objectives 3

RTW Program: Implementation Plan 4

RTW Plan: Statement of Eligibility / Exit Criteria 5

RTW Plan: Process Procedures 6

RTW Plan: Dispute Resolution Mechanism 7

Identification of Suitable Work Form 8

RTW Plan 9

RTW Journal 10

Return to Work Program Results Report 11

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Policy Commitment Statement

The Company values the goal of prevention of injuries and illnesses through maintaining a safe and healthy workplace. Consistent with this value is the company's commitment to the successful recovery of injured and ill employees by assisting in early intervention and return to safe work.

It is the Company's policy to take all reasonable steps to return injured and ill employees to their pre-injury job as quickly as possible.

Where the employee is unable to return to their pre-injury job, the goal will be to return them to alternative work, which is consistent with their functional abilities.

The Company and its employees are committed to co-operate and participate in the success of the Return to Work Program.

Letter of Understanding

Between: Company

and: Union

Purpose: Return to Work Program

We believe that a workplace-based joint management/union approach, which will assist employees who become injured or ill to return to work, is the most effective strategy toward reducing the economic cost of disability and maintaining the employability of our employees.

We believe that this program can be implemented and be compatible with current statutory and collective agreement obligations.

Both parties agree to develop and implement an effective Joint Management / Union Return to Work Program which will return workers back to a productive capacity.

The Joint Health and Safety Committee will be the forum for discussing and implementing details of this program.

_____	_____	_____
for the Company	for the Union	Date

Program Objectives

Expected Outcomes

- increased awareness of disability issues for all employees
- reduction in days lost due to absences from injuries and illnesses
- fair and consistent process for employees returning to work
- compliance with current and future legislative obligations
- reduce workplace safety and insurance costs

Return to Work Program
Implementation Plan

1) Assign responsibility for the program.

2) Write "Roles and Responsibilities" and communicate it to all employees.

3) Meet regularly to manage Return to Work Program.

4) Evaluate Program Objectives quarterly / annually.

Return to Work Plan

Statement of Eligibility and Exit Criteria

Eligibility Criteria into RTW Process

Employees who have injuries or illnesses resulting from the workplace. (This may include employees who have injuries resulting from outside of the workplace.)

The RTW process begins immediately after the injury or illness occurs.

Exit Criteria from the RTW Process

- Return to regular job at full capacity.
- Return to full functional capacity supported by functional ability information.
- Unable to identify suitable, available work.
- Permanent placement in alternative work.

Return to Work Plan

Process Procedures

Employee

- Immediately report all accidents and illnesses and obtain necessary first aid and/or health care.
- Sign Form 7 to consent to disclosure of functional abilities (FA) information, obtain WSIA's Functional Abilities Timely Return to Work form from company and take to Health Care Practitioner to complete.
- Return completed functional abilities form before start of next shift, or communicate the FA information to the company.
- Assist the company to identify suitable work consistent with their functional abilities.
- Co-operate in their RTW and communicate updates to their FA.

Company

- Complete the Form 7 within 3 days of leaning of your reporting obligation. The WSIB must receive the Form 7 within 7 business days from the date of learning of your obligation.
- Review completed FA form with employee to identify suitable work.
- Write an RTW Plan in co-operation with the employee and monitor the plan.
- Communicate with employee regularly throughout recovery.
- Complete all necessary forms as required by the WSIB.

Return to Work Plan
Dispute Resolution Mechanism

Whenever there is a dispute between the company and the employee the following steps will be taken:

1. Review the RTW Plan, where an error has been made, reasonable steps will be taken by the Company to correct the error.

2. If the dispute is regarding functional ability / suitability of work match:

    a) Obtain an updated Functional Abilities Timely Return to Work form, and review the suitability of available work.

    b) If necessary, where the recovery is not progressing as anticipated, refer the employee to a Health Care Practitioner paid for by the company to conduct a more comprehensive functional abilities evaluation.

3. Where the dispute cannot be resolved, refer the matter to the WSIB for assistance from a RTW Mediator for determination of the dispute.

Identification of Suitable Work Form

Suitable Work Review Date: _____ **Employee Assistance:** _____

AVAILABLE WORK PHYSICAL DEMANDS	FUNCTIONAL ABILITIES SKILLS	JOB MATCH (YES / NO)

Next Suitable Work Review Date: _____

Return to Work Plan

Employee Name: _____

Start Date: _____ **End Date:** _____ **Pre-Injury Job:** _____

Earnings: _____ **Goal:** _____

DAY / WEEK #	HOURS PER DAY	JOB DUTIES	ACCOMMODATION

_____ _____

Employee Signature For the Company

Return to Work Journal

Employee Name: _____

Duration of Plan: _____ **Supervisor's Name:** _____

Week #: _____ **of RTW Plan Pre-Injury Job:** _____

Date	Scheduled Hours	Hours Worked	Hours Not Worked	**Issues** completed by Supervisor & Worker	**Resolutions** completed by Supervisor & Worker
MONDAY					
TUESDAY					
WEDNESDAY					
THURSDAY					
FRIDAY					
SATURDAY					
SUNDAY					

Return to Work Program Results

Evaluation Period: _____ **To:** _____

Comparison Period: _____ **To:** _____

INDICATOR	COMPARISON	DIFFERENCE
Lost Time Injuries	Lost Time Injuries Last Period	+ or -
Days Lost	Days Lost Last Period	+ or -
Rebate / Surcharge	Rebate / Surcharge Last Period	+ or -
Total Accident Costs	Costs Last Period	+ or -